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Those agencies, in turn, rely upon the FCC to provide adequate radio spectrum for their activities, and to adopt rules and procedures that facilitate their operations and take into consideration the special financial constraints and requirements of public safety agencies.

The following comments provide an overview of some basic considerations that must play a role in all FCC decision-making on radio spectrum issues. Thereafter, APCO offers some specific responses to the Commission's questions with regard to the Wireless Telecommunications Bureau procedures.

#### **A. BASIC CONSIDERATIONS**

##### **1. PRIORITY.**

The priority of public safety must be the first concern. The need to provide wireless systems for the purpose of protecting life and property is entirely different from providing a service to commercial users. While the Commission must weigh competing factors in all of its decisions, public safety issues must receive top priority.

##### **2. SYSTEM COVERAGE**

Areas of coverage for the public safety user are determined by the geographical area of responsibility of the governmental agency, rather than by a market area as the

requirement in commercial systems. Rules regarding power and other parameters which affect signal coverage must reflect this difference, and be adjusted both higher and lower as appropriate. This can best be accomplished through the recommendations of the frequency coordinator.

### 3. EXCLUSIVITY

While air time sharing may be acceptable for commercial users, it is inappropriate for systems which protect life and property. For the commercial user, exclusivity enhances the potential for the licensee to attract more customers and to provide improved services. For the public safety user, quasi-exclusivity is a necessity to ensure that vital communications will not be interrupted at a critical time.

### 4. PROCUREMENT TIME

Governmental agencies operate on multi-year budgets and capital outlay is often a multi-year process. While rules for procurement vary from agency to agency, generally all major purchases are made through a strict bid process. This further increases the time required from concept, to planning, to funding, to specification preparation, to award of contract, and finally to procurement.

The slow procurement and implementation times faced by public safety agencies must be considered whenever spectrum is available to both public safety and non-public safety entities. For example, public safety agencies lost many

critical 800 MHz Public Safety Category channel assignments simply because businesses could move quickly to "justify" intercategory sharing of those channels before relevant public safety were prepared to file applications and construct new facilities.

#### 5. VALUE OF SPECTRUM

Since all public safety applicants are governmental agencies, it is totally inappropriate to assess charges for spectrum or fees for processing licenses. Under no circumstances should a state or local government be forced to pay a fee to the federal government to use an inherently public resource--the airwaves. To date, this has been recognized and honored by the Commission. The federal agencies which control the spectrum and its licensing are tax supported, as are the governmental agencies applying for the licenses. Charging for any part of this process would be counter-productive.

Further, the Commission must not let economic factors influence the allocation of spectrum for public safety use. While APCO appreciates the desire to raise additional revenue through auctions, the Commission must first accommodate the needs of public safety.

## 6. COMPETITION

In a commercial environment, competition may well be the key to both improved performance and lower costs. Administering either the acquisition or the use of the spectrum by public safety agencies through a competitive process could lead to a totally opposite result. Cooperation, rather than competition, is needed at all levels, between the federal, state and local governments and between the various public safety services. The frequency assignment process must be carefully structured and performance monitored to ensure the public is being adequately served.

## 7. ENFORCEMENT

Public safety agencies historically have been at the forefront in enforcing the Federal Communications Commission Rules and Regulations. All that is required is supervision and support at the national level for this compliance and self-enforcement. Conversely, this is not true of commercial services who must depend solely upon the FCC for enforcement. Adequate personnel for enforcement at FCC Field Offices must be a high priority in any proposed changes in reorganization.

## 8. SPEED OF SERVICE

Speed of service by the FCC is critical where emergency communications are required. In some cases, there must be

provisions for temporary licensing can provide a method to satisfy this requirement. While speed of licensing may relate to lost profits in the commercial arena, in public safety, quality of frequency selection and assignment is of far more importance than is saving a week or two in the licensing process. APCO suggests an interim process where temporary authority may be granted to allow the applicant to begin installation and operation while awaiting the final license grant.

#### 9. INTEROPERABILITY

The public safety requirements of federal, state and local government services mandate intercommunication. This is important in day-to-day operation and indispensable in disaster situations. Many illustrations can be given, but the basic need for mutual aid and coordinated action at the scene of a life and death situation needs no explanation.

In comparison, there is no requirement for such interoperability in the commercial field that cannot be accomplished through simple interconnection to the public switched telephone network.

Additional channels must be provided and rules for their use prescribed by the Commission to ensure interoperability in emergency situations. Such interoperability also requires compatibility of equipment, both in regard to spectrum and technical configuration. As appropriate, standards must be developed. These may be

either mandated or optional, but interoperability cannot be ensured otherwise.

#### 10. PRIVATE SYSTEMS

Public safety communications operations are far too critical to be provided through commercial service providers. Only by maintaining their own communications networks can public safety agencies provide the levels of reliability, coverage, priority access, and security necessary for police, fire, emergency medical and other public safety services. APCO recognizes that some state and local government communications can, and should, be accommodated through commercial providers. However, any communication operation that has an impact on the protection of life and property must be provided through a "private radio" system owned and operated by a public safety agency.

#### 11. NEED FOR ADEQUATE SPECTRUM

The priority required for communications to support the protection of life and property far outweighs any use of the spectrum for entertainment or commercial purposes. Adequate spectrum must be assigned and appropriate rules developed for this use. The on-going PSWAC process will lead to recommendations for additional public safety spectrum allocations, and APCO hopes that the Commission will act promptly to implement those recommendations.

B. WHAT STEPS CAN THE WIRELESS BUREAU TAKE TO IMPROVE ITS PROCESSES?

1. Public Safety Division

There should be a special public safety division within the Wireless Telecommunications Bureau. Such a division must not be considered secondary to the total responsibility of the Wireless Bureau, but viewed as a means to deal with the unique requirements of public safety.

2. Frequency Coordination.

The need to design systems to cover the area of political jurisdiction, ranging from a small town, to a large city, a district, a county, a region, a state, and even to the entire nation, can only be addressed through a coordinated approach to the assignment of available spectrum. For example, the 800 MHz NPSPAC process has worked well. It is based on a regional, user driven process. The service provided by local advisors for the various public safety services is a further example. Recognition of state and wide area mutual aid plans is a prerequisite. Priorities by and between various public safety services must also be considered.

Radio signals cannot be confined exactly to political jurisdictions. Propagation in mountainous terrain, and anomalies, such as ducting and signal diffraction, are not readily predicable through the use of computerized analysis.



The Bureau does not have the staff nor the local knowledge of each local area to consider this type of variation in propagation. Recommendations for assignment must be provided by representatives of the service that is requesting the authority to construct and operate a system.

### 3. Licensing.

The actual licensing function must be retained by the Commission, though certain aspects of the licensing process could, perhaps, be delegated. There are several important factors, however, that must first be considered. First, public safety is presently exempt from FCC application fees. Any attempt to provide some portion of the licensing process through a contract agency would require a source of revenue for the that contract agency, either through Federal government grants or by charging fees for processing applications. For example, if APCO were to assume a greater role in the licensing process, it would have to collect additional fees from applicants to cover that additional burden on its operations.

Other factors, such as compliance with the Federal Aviation Administration regulations regarding tower height, cannot easily be delegated. The same holds true for those applications which require a waiver of FCC regulations. Enforcement must also remain the responsibility of the Commission. Some enforcement activities could be delegated, but the ultimate enforcement, including penalties for

non-compliance, cannot be effective unless kept at the highest level.

#### 4. License Database.

It is imperative to maintain a current and accurate license data base. The Bureau should place this issue as one of their highest priorities. Sufficient staff, supported by state-of-the-art electronic equipment and improved methodology must be provided. The actual speed of issuing the final license is not as important as keeping the progress of the application current and available to those who need to know. There is considerable room for improvement in the existing process, and APCO would be pleased to work with the Commission to make the necessary changes.

#### 5. Electronic filing.

The use of electronic exchange of information can improve both speed and accuracy, starting with the filing from the applicant to the coordinator, continuing from the coordinator to the Bureau, and finally to the actual issuance of the license. This capability should be developed and encouraged. It should not however, be made totally restrictive without providing some type of assistance to needy applicants.

6. Legal responsibility and resolution of disputes.

Radio propagation has many variables. The assignment process is not perfect, and regardless of the method of frequency selection and licensing, there will be cases of interference. The Commission must retain the final authority and the final responsibility to resolve those issues. The high cost of indemnity insurance, which would be required for any other entity that took on such obligations, would need to be passed on to the applicant. This would further increase costs to the applicant.

7. Privatization.

While the process of issuing a license and maintaining a data base may be privatized, the recommendation for frequency assignment by representative coordinators must remain in place for public safety. If the Commission decides to "farm out" the licensing process, this can not remove its responsibility for management and authority. For example, the ultimate liability for incidents resulting from non-compliance to FAA requirements or inappropriate frequency assignment will fall back upon the agency which "controls" the spectrum.

8. Rules.

There is a definite need for specific rules for public safety, rather than general rules for all land mobile users. As illustrated, the requirements differ greatly from other

users, and must be separately addressed. This can best be accomplished through first consulting with representative advisory groups before issuing specific proposals for rulemaking which make major changes.

The current rules contain some which are too restrictive and others which do not prescribe adequate control. An example is the "Safe Harbor tables". These were not designed for public safety use, and while they may serve a useful purpose, they require a liberal interpretation by Gettysburg and often result in frequent requests for waivers to make them usable. A further need for public safety is realistic loading criteria to ensure proper distribution and use of channels and spectrum. Such criteria should not be simply limited to a specific number of mobiles per channel. For example, it could include the population served, and the recognition that emergency response requires instantly available channels, as opposed to less vital, but also necessary, other types of service.

#### 9. Dissemination of information.

This process could be greatly improved. Facilitating the exchange of information between the Commission and the users would result in an immediate improvement in public relations. There is a tendency on the part of public safety users to view the Commission as unapproachable. Use of the Internet would be helpful, but the major need is for more

readily available information on vital issues. This should include not only actions being considered, but, to the degree possible, status reports on pending actions.

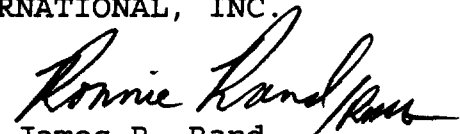
#### CONCLUSION

The on-going Public Safety Wireless Advisory Committee illustrates the intent and desire of the Commission to work with public safety toward the common goal of serving the public need. APCO is hopeful that this first step will produce a beneficial result, and believes a similar process toward the issues raised in this inquiry could be of great benefit to public safety. APCO will work with the Commission, and with the Wireless Bureau in particular, on the various items discussed in these Comments.

Respectfully submitted,

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